

REMARKS/ARGUMENTS

Applicant replies herein to the Office Action of July 17, 2009.

Claims 1-6 were pending in the Application prior to the present Amendment. All Claims were rejected. Applicant adds new Claims 8-9 and respectfully requests reconsideration of the rejection. Support for the new claims is found at least in Figs. 1-2 of the Application. No new matter has been added.

Claims 1-6 were rejected in the Office Action of July 17, 2009 under 35 U.S.C. 102(b) as being anticipated by any and all of Hurley et al. (U.S. Patent No. 6,820,743), O'Malley (U.S. Patent No. 7,237,675), Gray et al. (U.S. Patent No. 1,967,026), and Read (U.S. Patent No. 1,960,279). Applicant respectfully disagrees.

Claim 1 recites “two adjacent first compartments, which are equal in length, are parallel and substantially run together with the same horizontal orientation of respective wider area and narrower area, the two first compartments being on a same first plane, and a third, inverted compartment on an elevated second plane elevated relative to the first plane.” As illustrated in Figs. 2, 4 and 5 of the present Application, the rack 10 includes two identical parallel compartments 50 and 60 positioned on the first plane P1 and a third, inverted, compartment 70 positioned on the second plane P2 elevated with respect to the first plane P1. In other words, the bottle placed into the inverted compartment 70 is positioned above bottles placed into first compartments 50 and 60. As disclosed in the specification, this positioning results in 30% storage volume reduction. See, Specification, page 4, lines 19-20. None of the cited references disclose or even suggest these limitations of Claim 1.

Specifically, Hurley discloses a shipping tray 14 having three bottle receiving bays 28, 30 and 32 positioned “side by side, such that the neck of a given bottle in bay 30 will be held adjacent and between the bottom portions of the bottles in bays 28 and 32.” See, Hurley, col. 8, lines 1-4. Thus, as shown in Figs. 1-2 of Hurley, all receiving bays are positioned at the same level, contrary to the recitations of Claim 1.

Similarly, O'Malley discloses a bottle support apparatus 20 having bottle cradle portions 30 which are all located at the same level, as illustrated at least by Fig. 8, in which the bottle are interposed. See, O'Malley, Fig. 8. Gray discloses a bottle tray 10 having multiple receiving

recesses 11 all of which are located at the same level. See, Gray, Fig. 6. Finally, Read discloses a tray with multiple bottle cells 2 located at the same level of the tray. See, Read, Fig. 6.

Accordingly, none of the cited references discloses the above limitations of Claim 1. Further, it would not have been obvious to modify the prior art trays to elevate the intermediate compartment above the two parallel side compartments because, in the disclosed tray designs, it would result in an unstable positioning of the intermediate bottle. Therefore, Claim 1 is allowable over the cited prior art. Claims 2-6, dependent on claim 1 are similarly allowable over the cited prior art for at least the reasons given with respect to claim 1 and, further, on their own merits.

Further, new Claim 8 recites that “all bottles located at the first plane are oriented in the same first direction, and all bottles located at the elevated second plane are oriented” in the opposite direction. See, Application, Figs. 1-2. None of the cited prior art references disclose these limitations of the new Claim 8. Instead, each of Hurley, O’Malley and Read discloses that in each plane, the bottles are juxtaposed to be oriented in two opposite directions. See, Hurley, Fig. 1; O’Malley, Fig. 1; Gray, Figs. 5-6; Read, Fig. 6. Accordingly, new dependent Claim 8 is allowable over the cited prior art.

Similarly, new independent Claim 9 recites that the rack 10 includes a two-tiered upper relief configuration having a first tier P1 and a second tier P2 elevated with respect to the first tier. All bottles located within the compartments 50, 60 of the first tier are oriented in the same first direction, and all bottles located within the compartments 70 of the second tier are oriented in the same second direction, which is reverse of the first direction. See, Application, Figs. 1-2. As explained above, these limitations of the new Claim 9 are not disclosed in the cited prior art. Instead, each of Hurley, O’Malley and Read discloses that in each tier of the disclosed trays, the bottles are juxtaposed to be oriented in two opposite directions. See, Hurley, Fig. 1; O’Malley, Fig. 1; Gray, Figs. 5-6; Read, Fig. 6. Accordingly, new independent Claim 9 is allowable over the cited prior art.

Favorable reconsideration of the rejection and allowance of all pending claims is respectfully requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON OCTOBER 15, 2009

Respectfully submitted,



Robert C. Faber
Registration No.: 24,322
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: 212 382 0700

RCF:AV:dl